

Current Ethics Process Rules	Questions to Consider	Staff Comments
CHAPTER 2. HOUSE AND SENATE ETHICS COMMITTEES	None	None
Part 1. Membership, Meetings, and Staff	None	<p>JR6-2-201. Ethics Committee -- Jurisdiction.</p> <p>The Senate Ethics Committee and House Ethics Committee shall review and adjudicate any charges brought against a member of the Senate or House for acts that violate:</p> <ul style="list-style-type: none"> (1) the Code of Official Conduct; or (2) any law, rule, regulation, or other standard of conduct applicable to the conduct of a member of the Senate or House in the performance of legislative responsibilities, if the conduct would reflect discredit upon the Senate or House as a whole. <ol style="list-style-type: none"> 1. Should the jurisdiction of an ethics committee be limited to adjudicating violations of the Code of Official Conduct? 2. If subsection (2) is retained, should the language and standard be clarified or modified? 3. Should the scope of an ethics committee's jurisdiction be expanded (e.g., to allow the ethics committee to issue advisory opinions, to allow the ethics committee to conduct ethics investigations, etc.)? <p>This rule raises an interesting question. Subsection (1) gives the ethics committee the power to adjudicate claims arising from violations of the Code of Official Conduct, the ethics requirements established by the Legislature in Joint Rule. Subsection (2), however, grants significantly broader jurisdiction to the ethics committee and (arguably) to the legislators bringing the complaint. Current legislative ethics rules on the filing of complaints requires only that the complaint include the nature of the alleged violation, any facts alleged to support the complaint, and any documents that support the complaint. (JR6-3-101.)</p> <p>The subsection (2) grant of jurisdiction to the ethics committee arguably gives broad discretion to the committee to "cruise the Utah code" to try to find a law that would "reflect discredit upon the Senate or House as a whole. Because the Utah Code creates relatively imprecise offenses in some cases (e.g. nonfeasance in office, misfeasance in office, etc.), there is some danger that an ethics committee unable to find a basis in the</p>

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		<p>Code of Official Conduct to sanction a member might seek to find another obscure portion of the Utah Code in order to seek a means to impose sanctions against a legislator facing ethics charges.</p> <p>This provision may have been added to provide the ethics committee with authority over issues like a shoplifting legislator on the theory that the Code of Official Conduct is not sufficiently broad to allow the Senate or House to sanction that type of conduct. That issue might be able to be addressed in way other than expanding the jurisdiction of the committee.</p> <p>Usually, in criminal or quasi-criminal situations such as an ethics charge, it is considered important for due process purposes to include in the complaint and adjudicate the complaint according to specific violations of specific standards of conduct.</p>
JR6-2-202. Powers -- Subpoena -- Contempt.	<ol style="list-style-type: none"> 1. Should subsection (2) be revised to allow subpoenas to be issued by the chair or cochair. 2. Who should have authority to determine what witnesses, testimony, and materials are necessary? (For further elaboration, see Staff 	<p>The current rule vests that authority in the committee and the chair, which creates a conflict. If only the committee can determine witnesses and documents, that arguably requires a vote by a majority of the committee to determine which witnesses should be called and which materials should</p>

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<p>Office of Legislative Research and General Counsel may require, by subpoena or otherwise, the attendance and testimony of witnesses and the production of any materials that the committee considers necessary.</p> <p>(b) The committee chair may direct staff to:</p> <ul style="list-style-type: none"> (i) issue subpoenas to require the attendance of witnesses; (ii) issue subpoenas to direct the production of evidence; or (iii) issue subpoenas that require both attendance and production of evidence. <p>(3) (a) (i) The witness's disobedience to the chair's direction to answer a question, to a subpoena to appear, to a subpoena to produce evidence, or to a subpoena that requires both attendance and production of evidence, constitutes contempt.</p> <p>(ii) The chair's direction to answer a question may only be overruled by a vote of the majority of the committee members present.</p> <p>(iii) Because the object of the Fifth Amendment privilege not to incriminate oneself is so that no criminal action will be prosecuted, it is improper for a witness to invoke the Fifth Amendment privilege if the witness cannot be prosecuted for the crime to which the witness's testimony relates.</p>	Comments 3. Are there any issues about the provisions directing the process for enforcing subpoenas or about the Fifth Amendment provision?	be requested. That is a legitimate policy choice, but would probably require a committee planning meeting to make those decisions, which would increase the number of meetings and delay the committee adjudication.

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	<p>(b) A majority of the members of the committee may compel obedience to the requirements of the committee by directing staff to file a contempt proceeding in state district court against any person who:</p> <ul style="list-style-type: none"> (i) fails to comply with a subpoena or a subpoena duces tecum; (ii) refuses to answer a question relevant to the investigation that does not infringe on the person's constitutional rights; or (iii) is guilty of contempt on any other grounds specified in statute or recognized at common law. 	